

**THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE CITY OF TUCSON,  
ARIZONA**

**Minutes of the Special Meeting  
of the Board of Directors**

**November 2, 2009**

At the office of  
Business Development Finance Corporation  
335 N. Wilmot Rd., Suite 420  
Tucson, Arizona 85711

<b>Present:</b>	<b>Board Members</b>	Marilyn Robinson Pamela Sutherland Gary Bachman Randi Dorman ( <b>2:00 to 3:30</b> ) Adam Weinstein Maggie Amado-Tellez Evelia Martinez
	<b>Staff</b>	Gary Molenda, Business Development Finance Corporation Karen J. Valdez, Business Development Finance Corporation Rozan Simoni, Lotzar Law Firm, P.C.
	<b>Guests</b>	Corky Poster, Poster Frost Susan Gamble, Warehouse Arts Management Organization (WAMO) Jim Wilcox, WAMO Seven Eye, Solar Culture Marvin Shaver, WAMO Diana Rhoades, Council Aid City of Tucson Ward I David Aguirre, Tucson Arts Coalition / Tucson Arts District Partnership
	<b>Absent</b>	Christopher Carroll

The Special Meeting of the Board of Directors of The Industrial Development Authority of the City of Tucson, Arizona (the “**Authority**”) was held on **November 2, 2009** at the office of Business Development Finance Corporations, 335 N. Wilmot Road, Suite 420, Tucson, Arizona. All Authority’s Board Members and the general public were duly notified of the meeting. R. Simoni explained that Arizona’s Open Meeting Laws allow for members of the Authority’s Board of Directors and legal counsel to appear and participate in the meeting telephonically so long as all participants in the meeting can hear and be heard.

ITEM	ACTION TAKEN/TO BE TAKEN
<b>I. Call to Order.</b> M. Robinson introduced and welcomed Pamela Sutherland, the new member of the Board of Directors, who was appointed by Mayor & Council on <b>October 20, 2009</b> . Introductions were made by all the members of the Board of Directors and staff present.  Pam Sutherland added the following disclosures: <ul style="list-style-type: none"><li>• P. Sutherland was the Attorney for Warehouse Arts Management Organization (“<b>WAMO</b>”) from <b>December 2008</b> through mid <b>February 2009</b>.</li><li>• P. Sutherland and her husband do real estate development projects in downtown Tucson and are current owners of apartment buildings, and have a current project at <b>6<sup>th</sup> Street</b> and <b>6<sup>th</sup> Avenue</b> – the Tucson Blue Print Project.</li><li>• P. Sutherland and her husband have been involved in, and have financially invested in several downtown projects since <b>1998</b>.</li></ul>	The meeting was called to order at <b>2:10 p.m.</b> with a quorum present.

**II. Discussion and Request for Resolution for conditional approval of a loan request to Warehouse Arts Management Organization (“WAMO”) and authorizing the execution of a letter of conditional loan commitment from the Authority.**

As a means of providing background information related to this Agenda item, M. Robinson introduced Corky Poster, author of the Tucson Historic Warehouse Arts District Master Plan (“**Master Plan**”), and distributed pages from the plan for review. Ms. Robinson asked that Mr. Poster provide information on the following: **1)** origins and support of Master Plan, and **2)** what is next in the process.

C. Poster stated that he has been working on the Master Plan over the past **7 years** having been hired in **2003** by the Tucson Arts District Partnership, to focus on Toole Avenue and the properties on Toole Avenue. The comprehensive process was completed in **May 2004** receiving unanimous support from the City of Tucson Mayor & Council. The Master Plan's goal is to develop the Tucson Historic Warehouse Arts District (“**Warehouse District**”) as a center for incubation, production and exhibition of the arts, with artists at its heart. The Master Plan's sub-goals include: mixed-use, diversity, realistic economics, sustainability, neighborliness, historic preservation, safety, conversion of surface parking lots to compatible arts related uses, pedestrian and bicycle-friendliness, reduced pass-through automobile traffic, public parking and resolution of environmental problems. C. Poster stated that as a secondary effort, he was hired to develop the downtown links land use of urban design plan (“**Links Plan**”) aimed at looking at some of the zoning and land use questions surrounding this area. As part of downtown links, a series of **4** overlay plan area developments will be created. Mr. Poster noted that the Warehouse District was added to the overlay district when Mayor & Council approved the Links Plan.

Mr. Poster discussed information surrounding the properties currently marketed by the Arizona Department of Transportation (“**ADOT**”) that are being released in different categories and different layers. Zoning of the properties along Toole Avenue was discussed. Most of the properties are located in an **I1 Zone**, which does not allow for residential uses. The overlay zone will eliminate the problem by creating allowable uses that displace restrictive items. The Master Plan Guiding Principals were reviewed.

Most of the questions from the Board were about status on certificate of occupancy and building code requirements for the Warehouse District. Mr. Poster responded by noting that these buildings have been jurisdictionally invisible for the past **22 years**. The day they are sold to a private owner, the properties of the Warehouse District will suddenly appear as a jurisdictional building and thus will need to be brought up to code, as required by the City of Tucson in order to obtain a certificate of occupancy.

M. Robinson stated that the Authority has received a loan request from WAMO, the proceeds of which will be used to purchase the warehouse property generally located at **31 E. Toole Avenue**. This warehouse property is currently occupied by Solar Culture, Inc., which has operated an art gallery and a performance space at the subject location for almost **20 years**.

G. Molenda reiterated comments made by Corky Poster stating that there is some urgency as a result of the State of Arizona’s decision making process. He noted that the credit memo, dated **October 30, 2009**, provided by staff (the “**Credit Memo**”), has a lot of unknowns noted which are due to time constraints involved. Mr. Molenda thanked Mr. Wilcox, WAMO Consultant, for his very strong efforts in providing as much information to staff given these time constraints. Mr. Molenda stated that in order for WAMO to enter into the bidding process, ADOT is requiring evidence of financing or ability to complete the purchase. With regard to schedule, if WAMO is successful in achieving conditional loan approval today from the Authority, such approval will allow WAMO to enter into the bidding process. If WAMO enters the bidding process and is the successful bidder, then WAMO will have **60 days** to close escrow, which will allow time to resolve questions and provide required information that is not readily available today. The financial plan (pro-forma) prepared by WAMO was reviewed with the Board. The plan recognizes the sustainability component and attempts to address it.

A **MOTION** was made and seconded (E. Martinez / G. Bachman) to provide WAMO a conditional letter of approval as suggested by staff.

**MOTION** was amended to read:

A **MOTION** was made and seconded (E. Martinez / G. Bachman) to provide WAMO a letter of conditional loan approval with no stated dollar amount.  
**Approved 7-0.**

<p>K. Valdez reviewed the Credit Memo with the Board noting that WAMO has requested a loan at <b>90%</b> loan to value. It was noted that a minimum bid was received by ADOT on the subject property, initiating a <b>30-day</b> timeline for an auction. Another legitimate bid must be received by ADOT no later than <b>10:00 a.m.</b> on Monday, <b>November 9, 2009</b>, to initiate an auction that will be held on <b>Tuesday, November 10, 2009</b>. K. Valdez reviewed net funds available from the Community Loan Fund as of <b>September, 30, 2009</b> along with the public purpose as defined by the Authority's mission statement and goals. Environmental findings and recommendations from a <b>Phase I</b> Environmental report dated <b>October 1999</b>, revealed no evidence of recognized environmental conditions, as defined by <b>ASTM E 1527-97</b> and recommends no additional environmental inquiry in order to show "<b>due diligence</b>." Environmental considerations outside the scope of ASTM include the potential for asbestos and lead-based paint in the building. It was noted that a current <b>Phase I</b> environmental report will be a condition of loan funding. "<b>Issues to Note</b>" along with "<b>Risks</b>" were reviewed with the Board. Discussion ensued with regard to code requirements, certificate of occupancy and additional due diligence required. It was stated that to date, material information has not been provided for review and therefore staff cannot provide a recommendation for approval. However, staff suggests a conditional letter of approval be granted to allow WAMO to enter the auction process.</p> <p>M. Robinson stated that given the present financial situation with WAMO and the knowledge that WAMO will be entering a bidding process where the outcome is unknown, she requested specific wording of a resolution from R. Simoni that would enable the Authority to condition the loan amount on the bidding process with certain price controls. It was noted that the bidding will start at <b>\$95,000</b>. R. Simoni stated that from a legal perspective, a purchase can be at any amount and the Authority can approve an unlimited amount of money for the purchase price, however, what it comes down to is a business decision from the Board as to what is reasonable. Discussion ensued regarding: establishing and empowering a sub-committee to review WAMO request and to review further due-diligence; establishing criteria and parameters for a conditional letter of approval; risk to WAMO with regard to conditions of funding. It was noted that conditions of funding are born by the applicant; loan terms and adjustments thereto; public purpose and remaining fiscally sound and self sustaining; and maximizing impact in the community. The pro-forma prepared by the applicant was reviewed by the Board. It was noted that affordability parameters are addressed in the pro-forma and cover vacancy rates, expenses, debt coverage, etc...</p> <p>It was the consensus of the Board to provide a letter to WAMO of conditional loan approval.</p>	
<p><b>III. Discussion and request for resolution authorizing the purchase and/or the assembly of downtown property, including various actions related to the acquisition of land and purchase of land from the Arizona Department of Transportation ("ADOT").</b></p> <p>P. Sutherland began discussion regarding ADOT warehouse property going to auction on <b>Friday, November 6, 2009, 1 E. Toole Avenue</b> (aka Zee's Warehouse). Discussion ensued regarding Authority's commitment to the Warehouse District. Marketing information received from ADOT that was provided in the Board packet was reviewed by the Board. <b>2</b> possible options were discussed with regard to acquiring the site for: <b>1)</b> RFP process and sell, or <b>2)</b> hold and develop.</p> <p>M. Robinson reviewed the Authority's Loan Portfolio Summary, Balance Sheet as of <b>September 30, 2009</b>, and the Authority's Interest Earning Accounts. There was discussion regarding the Authority's goals to include: affordable housing, downtown and community development, economic development, and as noted by G. Bachman, stewardship and responsible investments.</p> <p>With regard to purchasing property, P. Sutherland stated that the Authority could empower Dark Mountain Development Corporation ("<b>Dark Mountain</b>") to bid at the</p>	<p>A <b>MOTION</b> was made and seconded (P. Sutherland / E. Martinez) to approve acquisition, at a reasonable amount, of <b>1 E. Toole</b> at the auction to take place on <b>Friday, November 6, 2009</b> if bidding on anyone other than Chris Larsen and to authorize submission of a deposit in the amount of <b>\$16,500.00</b>. <b>Approved 6-0.</b></p>

<p>ADOT Auctions. It was noted by Ms. Sutherland that the best individual to acquire <b>1 E. Toole Avenue</b> is Chris Larsen and stated that to date, ADOT has not received a <b>second</b> bid for the property. If another legitimate bid is received by ADOT by <b>10:00 a.m.</b> on <b>Thursday, November 5, 2009</b>, an auction will be held on <b>Friday, November 6, 2009</b> at <b>11:00 a.m.</b> Ms. Sutherland further commented that if it is the sense of the Board that acquiring <b>1 E. Toole Avenue</b> is an option for the Authority, she suggested further due diligence between today and the <b>November 5, 2009</b> with a Special meeting to be held in the afternoon of <b>November 5, 2009</b>, in order to empower Dark Mountain to bid at the auction. R. Simoni stated that an executive session would be warranted for a discussion regarding the purchase of real estate. Mr. Simoni also noted that Dark Mountain is a separate legal entity. It was noted that the Authority could purchase the subject property and later transfer the subject property to Dark Mountain. There was continued discussion and it was the consensus of the Board to approve acquisition of the subject property.</p>	
<p><b>XV. Adjourn Regular Meeting.</b></p>	<p>A <b>MOTION</b> was made and seconded (P. Sutherland / E. Martinez) to adjourn meeting at <b>4:30 p.m. Approved 6-0.</b></p>

Submitted by:

Approved by:

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**Karen J. Valdez**  
**Business Development Finance Corporation**

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**Marilyn Robinson, President**  
**The Industrial Development Authority of the**  
**City of Tucson, Arizona**